

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
MINUTES  
October 6, 2008**

**1. OPENING OF THE MEETING**

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with or local official newspapers and posted on the municipal bulletin board.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL:**

**PRESENT:** William Martin, Chairman  
Raymond Arroyo  
Guy Hartman  
Dan Koch  
Joseph Frasco, Vice-Chairman  
Eric Oakes  
Christopher Owens (Alt #1)  
Michael Bieri (Alt. #2)

**ALSO PRESENT:** David Rutherford, Esq., Board Attorney  
Louis Raimondi, Maser Consulting, PA  
Board Engineer  
Steve Lydon, Burgis Associates  
Borough Planner

**ABSENT:** William Vietheer (excused absence)

Mr. Hartman listened to the tape of the 9/8/08 meeting and signed a certification.

**4. MINUTES** - The Minutes of 8/4/08 and 9/8/08 (as amended) were approved on motions made, seconded and carried.

**5. CORRESPONDENCE:** As listed on Agenda and read:

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1. Letter dated 9/17/08 from Maser Consultants RE: Lebanon Baptist Church;

2. Letter dated 9/30/08 from Nancy E. Saccente, Esq. RE: Uniq Surfaces;

3. Letter dated 9/30/08 from David L. Rutherford, Esq. RE: Petrina;

4. Letter dated 9/25/08 from Burgis Associates RE: Lebanon Baptist Church;

5. Letter dated 9/30/08 from Burgis Associates RE: Lynch;

6. Letter dated 9/30/08 from David Watkins, Esq. RE: Schmidt;

**6. VOUCHERS:** None

**7. RESOLUTIONS:**

**1. Schreyer (Denney), 40 Lester Avenue Section 68 application** - Resolution carried to 11/3/08.

**2. Bermudez, 32 Grove Street - Replacement of Porch** - Board Attorney Rutherford gave an overview of the Resolution of Approval. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Koch. There were no further questions, comments or discussions. On roll call vote, Mr. Koch, Mr. Frasco, Mr. Arroyo, Mr. Oakes, Mr. Owens, and Mr. Martin voted yes.

**3. Puentes, 60 Wheeler Avenue, Block 205, Lot 1 - Addition, Patio, New Garage, Driveway Replacement & Section 68 Certificate** - Board Attorney Rutherford gave an overview of the Resolution of Approval. A motion for approval of the Resolution was made by Mr. Frasco and seconded by Mr. Arroyo. There were no further questions, comments or discussions. On roll call vote, Mr. Koch, Mr. Frasco, Mr. Arroyo, Mr. Oakes, Mr. Owens, and Mr. Martin voted yes.

**8. PENDING NEW BUSINESS:**

**1. Lebanon Baptist Church, 20 High Street - Site Plan & Use Variance for Non-conforming use;**

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**9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS:**

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in

**1. Paragon Federal Credit Union, Washington Avenue, Block 805, Lots 2 & 3 -** Mr. Rutherford advised the matter is being held on the calendar, as an application for site plan approval will be filed, and applicant will republish and renotice. The matter was carried to 11/3/08.

**2. Phil Petrina, 118 3<sup>rd</sup> Avenue - Proposed Sunroom addition** - Carried to 11/3/08 at request of the applicant with renotice and publishing;

**3. Dennehy, 40 Lester Avenue - Addition/Front Porch & Hearing on Appeal** - Mr. Rutherford advised this would be considered one application, but with two Resolutions. This is a D(2) variance, which requires five affirmative votes. The application was for a second story addition over a renovated first floor. Mr. Schreyer, applicant's attorney, advised three variances are requested: front yard setback variance of 1.5', wherein 22' is required, and 20.5' is provided. The second variance is for a 9.5' side yard setback. These are minor deviations at best. The third variance is for building coverage of 25.20%.

Chris Blake, a Licensed Architect, prepared the architectural plans being proposed and continued under oath. The addition is essentially two pieces. The second floor will consist of four bedrooms and two bathrooms. There will be no increase on the side yard set back. The line would be carried up to the second floor. There would be no detrimental impact on the surrounding neighborhood, and it fits in. The house next door is approx. 19' away from the property line. The landscaping is similar to that in the neighborhood and this addition will enhance and be in keeping with the neighborhood. It is not oversized; it is not a big house.

Questions by Board Members and Professionals followed. Mr. Raimondi commented an average of the setbacks of all the homes on the block should be provided. Also, the architect's field measurements were not accurate and did not agree with the survey measurements. A photocopy of a survey by Koestner Associates

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was distributed, but was somewhat illegible as to the date. Mr. Blake would submit clear copies of the survey to scale. Mr. Raimondi would review same. Mr. Arroyo asked if they submitted copy of the easement. Mr. Rutherford would check the file. Mr. Lydon asked for the most recent revision date, which was 8/13/08. Mr. Lydon for the total number of bedrooms the house would have, and the response was four. Further one parking space is being blocked by another space, and therefore another variance may be required for parking spaces for a four bedroom house. He asked if Mr. Blake read the Zoning Ordinance, and he read the appropriate sections, but he did not read the Master Plan. Mr. Martin commented they should produce a professional planner to testify as to the D(2) variance requirements. Mr. Blake's testimony was complete.

Mr. Schreyer advised he had no further witnesses, and requested to be continued at the next meeting since additional items and information were necessary. The matter was carried to 12/1/08, since Mr. Schreyer would be out of the country for the next meeting. There would be no further notice, and the applicant extended the time period for the Board to act.

**4. F&A Woodland Associates, 309 Kinderkamack Road - Use Variance** - Carried to 11/3/08 at request of applicant;

**5. Uniq Surfaces, 701 Broadway, Block 701, Lot 7 - Variance** - Carried to 11/3/08 at request of the applicant.

**6. Vaccaro, 100 Fourth Avenue - Garage expansion** - Mr. Rutherford reviewed the public notices and documents and found them to be in order. The applicant, Carl R. Vaccaro, and Vincent Benanti, Licensed Architect, were sworn in. They are proposing an expansion of an existing dining room and garage. The house was originally a bi-level. They are looking to expand the garage 5' to the North and to the East to align with the front of the existing house, which gives more space in the dining room and garage. They are seeking to put on a new deck via the dining room. The garage is extremely narrow at present, and they are looking to pick up 5' of space to put in a larger door and give storage space and extend the driveway for more parking. Hopefully they could pick up more space to turn around to exit onto busy Fourth Avenue, as it is very difficult at present. They are looking to increase the non-conformity by 3.5'. The architectural plans were marked A1. The addition the

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side yard and combined side yard are where they have their non-conformities.

Mr. Lydon clarified the variances as being side yard setback and combined side yard setback. Mr. Raimondi requested calculations of lot coverage. Board Members questioned the witness. Mr. Martin asked if any thought was given to having a patio instead of a deck. Mr. Benanti responded they discussed it, but his client wanted to walk straight out to a deck. Mr. Martin commented he would be more comfortable with a 5' setback since the neighbor's house is pretty close, and was concerned about fire safety if you had to get a truck in there. This would be a good compromise for what his client needs and what is safe. The applicant wanted to also park a motorcycle on premise, and it may be too narrow. Mr. Martin said it would be possible. Mr. Benanti indicated if it makes it more palatable to the Board, it could be done. Mr. Martin suggested adding a hammerhead for a car to come out front ways. It would not need a variance.

Mr. Martin recapped, there would be a 5' setback on the side, they will look into the hammerhead in the driveway, pull the garage forward slightly if it desired, as long as it did not trigger a variance, and have the deck with a 10' setback. A revised drawing would be provided. Mr. Benanti asked if the Board could act subject to providing same, and Mr. Rutherford advised the Board could proceed, subject to. There were no questions or comments from the public. A motion for approval was made by Mr. Arroyo and seconded by Mr. Koch, subject to the conditions as discussed. On roll call vote, all members voted yes.

The Board took a recess from 9:30 to 9:36 p.m.

**7. Burke's Bar & Grill, 65 Old Hook Road - Construction of Outdoor Deck - Withdrawn**

**8. Albert's Westwood Cycle, 182 Third Avenue - Variance approval;** (Eric Oakes recused) Carried to 11/3/08;

**9. Mark Salerno, 175 Third Avenue - Storage - Incomplete;** Carried to 11/3/08;

**10. Richard Schmidt, 201 third Avenue, Block 916, Lot 16 - Reconstruction - Mixed Use Building - David Watkins, Esq.**

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represented the applicant. The building was damaged by a fire, and was previously a non-conforming structure. A meeting of the minds must be met to determine it is more than 50% destroyed. Here it was not. Mr. Schmidt could not get a building permit. He went before Judge Toskos. They would enter into a Consent order, wherein if the matter is denied, he could return to the Board with an application for the original building. The application is for a smaller building with less variances. They are proposing better planning for the municipality. Mr. Rutherford acknowledged receipt of the orders dated 5/21/08 and 8/1/07, and he spoke with Mr. Huntington, who advised the Borough was a part to the suit brought by the applicant the building would be demolished without prejudice subject to the non-conforming rights of the applicant. The Board cannot rely on the use being abandoned. The Board should approach this in some respects as if the building is still there. The applicant did not abandon the use. The Borough is concerned with the condition of the property and unsightliness. The applicant has the right again to challenge the Board's decision per the order.

Mr. Watkins stated the building they are proposing is 17% smaller and only 28' high. The former was 35' high. He showed a rendering. Mr. Martin clarified the issues.

Mark Martins, P.E., 657 Greenway Place, River Vale, NJ, was sworn in and gave his credentials as a Licensed Professional Engineer, working with Hubschman Engineering. The plans, dated 8/6/08, were prepared by him under the supervision of Mr. Hubschman. Mr. Martins was accepted by the Board, and he proceeded to testify. The property was known as 199-209 Third Avenue, at the corner of Third and Elm Avenues. Mr. Martins reviewed the Zoning Schedule. The premises is in a mixed use zone and has 5,378.65 s.f., wherein 7,500 is required. A multi-use building was proposed. Variances are required for minimum front yard setback on Third and on Elm; minimum side yard setback, maximum FAR, maximum impervious coverage, and minimum parking stalls. Mr. Martins turned to Sheet 2 of 3 of the Site Plan, Soil Erosion and Sediment Control Plan. He described the landscaping plan. Mr. Martins continued with Sheet 1. The variances included non-conforming conditions. Mr. Martins addressed the report of Mr. Raimondi dated 8/21/08 and would comply. Mr. Watkins asked if the Board is gracious to approve the application, they would want to pull a building permit as

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soon as possible. The drainage would have a positive effect on the neighbors, as there is no drainage there right now. Also, there would be a fence around the concrete pad for garbage. Mr. Raimondi asked for certain landscaping to be added to the plan. Mr. Martin asked about the entrance to the building.

The matter was opened to the public for questions of Mr. Martins, and the following persons came forward: C.J. Garcia, Second Avenue, Westwood, NJ asked about parking. Mr. Martins and Mr. Watkins responded to questions, referring to the plan.

The next witness was called. Jon Fellgraff, AIA, Licensed Professional Architect, 130 Kinderkamack Road, Park Ridge, NJ. The plans prepared by Mr. Fellgraff were dated 6/15/08 and revised to 8/5/08. The property consists of brick, colonial-type. The modes of ingress and egress included a fire exit on the second floor. A question arose, and Mr. Watkins responded the Section 68 was already established. On the property were three (3) one bedroom units plus businesses, which they are proposing. Mr. Rutherford read from the Court Order. Mr. Arroyo questioned and expressed concern about the possible uses. Mr. Rutherford advised we are not approving a specific use. The focus is to determine if the Board is willing to grant the approvals needed to build this building on this property. He understands Mr. Watkins will go to the Zoning Officer who will make a determination. It is permitted because it is a continuation of the use. There were no further questions. Mr. Lydon questioned the witness about signage. Mr. Watkins said the signs would be conforming. As for lighting, Mr. Fellgraff did not have the pattern, but Mr. Watkins said they would comply. Mr. Raimondi referred to his report item #3, stating the architect's plan should show the height of the building. Mr. Martin asked how he would heat and cool the building, but they did not know yet. Mr. Martin suggesting modifying the roof to shield the view and sound of the air conditioning unit. They agreed. There were no further questions.

Mr. Watkins rested his case. The matter was opened to the public for comments. Jane Greenberg, 148 Second Avenue, corner of Second and Elm was sworn in. There is one home between hers and Mr. Schmidt's property. She and her neighbors were concerned about the condition of the property and it being in disrepair. Mr. Martin explained it would be a smaller building and the owner had to notify the public as to all the non-

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conformities. There is an overflow of traffic and commuter parking in the neighborhood. She was also concerned about visibility, and Mr. Martin explained the building would be set back 5' which would greatly improve that condition. Mrs. Greenberg saw the rendering and thought the building was beautiful. Mr. Martin stated we do not know who the tenants will be. C.J. Garcia was sworn in and stated the building looks fantastic. They will come back when it is time to put the tenants in. He was also concerned about traffic. Mr. Martin responded the Board's authority stops at the property line. The lot will be paved and kept up. The owner will have a vested interest in keeping it nice. If the businesses stay the same, there will be no increase in traffic.

Mr. Watkins waived summation. Board discussion followed. The Board Members commented it is a better planning alternative, it is an improvement and/or reduction from what is there. It is a positive application and applicants were open to the Board's suggestions.

A motion was made by Mr. Koch and seconded by Mr. Oakes. Mr. Rutherford advised he would feel more comfortable with being authorized to prepare a Resolution since the applicant must submit a revised plan, including enhancements including those to the lighting, HVAC, fencing, etc. The attorneys would confer as to the exact list of requirements. The motion was amended to authorize the Board Attorney to prepare an approving Resolution for the next meeting. The amendment was accepted. On roll call vote, all members voted yes.

**11. Lynch, 117 Beech Street - Application for "C" variance**  
Scheduled for 11/3/08;

**11. DISCUSSIONS:** None

**12. ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 11:00 p.m.

**Respectfully submitted,**

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**MARY R. VERDUCCI, Paralegal**



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**Planning Board Secretary**